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**FILED**

APRIL 14, 2005

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NEW JERSEY STATE BOARD  
OF MEDICAL EXAMINERS

STATE OF NEW JERSEY  
DEPT OF LAW & PUBLIC SAFETY  
DIVISION OF CONSUMER AFFAIRS  
BOARD OF MEDICAL EXAMINERS  
OAL Docket BDSME 07845-2004N

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IN THE MATTER OF THE SUSPENSION OR :  
REVOCATION OF LICENSE OF  
PAUL H. PEVSNER, M.D.  
LICENSED TO PRACTICE MEDICINE AND  
SURGERY IN THE **STATE** OF NEW JERSEY:

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ADMINISTRATIVE ACTION

FINAL ORDER

This matter was opened to the **State** Board of Medical Examiners upon the filing of an Administrative Complaint on May 28, 2004 by the Attorney General of New Jersey.

As set forth more fully in the four-Count Complaint, respondent's conduct was alleged to violate **N.J.S.A. 45:9-6**; **N.J.S.A. 45:1-21(b), (c), (d), (e) and (h)**; the Professional Corporation Act, **N.J.S.A. 14A:17-1 et seq.**, and administrative rules **N.J.A.C. 13:35-6.5; 13:35-2.5(h)** as then in effect and later recodified as **13:35-2.6; 13:35-6.1; 13:35-6.10; 13:35-6.16(b), (f), (k); 13:35-6.17; 13:35-6.19; and 13:45C:1.3(a)**.

**CERTIFIED TRUE COPY**

Respondent filed **an** Answer through his **attorney** JoAnn Pietro. **Esq.** denying the charges.

The matter **was** scheduled for plenary hearing commencing April 4, 2005 before the Hon. Leslie Z Celantano, A.L.J. at the Office of Administrative Law.

Dr. Pevsner, having considered the matter and having had the opportunity to consult with his attorney, **has** determined to **waive** his opportunity for **plenary** hearing before the Office of Administrative Law and. in the interests of amicable settlement of the matter, hereby amends his prior filed Answer as follows:

Count 1 : Dr. Pevsner neither admits nor denies the allegation of violation of N.J.S.A. 45 :1-21(c) or (d) in interpretations of MRI studies.

Count 2: **Dr.** Pevsner admits the allegation that he did not maintain retrievable forms of the patients' MRIs which he interpreted. He offers the explanation that he assumed the **various** corporate entities - although they were not licensed - would maintain the studies. Further, he asserts that for some studies, he believes that a former employee destroyed the digital images and reports. He pleads no contest to the allegation of failure to have prepared adequate patient records and reports and to have allowed claim forms to be submitted, often with no identification of the physician provider.

Count 3: Dr. Pevsner admits having issued the dozens of exemplar MRI interpretation reports identified in this matter for corporate entities which were not licensed by the State Department of Health and Senior Services **at** the times in question, including several which **never** became licensed. However. as to one of the many facilities unlicensed at the time of his employment. *i.e.*, Open MRI of Fairview. he states that he **was** not aware that **an** entity intending to offer MRI and other radiological services required a license to operate. and that a Certificate of Need was not sufficient.' The Board notes that such explanation is in conflict with the requirements of Department of Health and Senior Services law and rules N.J.S.A.26:2H-1 et seq. and N.J.A.C. 8:43A-2.3. He also admits having issued and/or knowingly allowed the issuance of the dozens of exemplar reports on letterhead of entities in which he held no ownership or contractual interest, including but not necessarily limited to: Open MRI of Fairview; Diagnostic Imaging P.C. at Open MRI of Fairview; Open MRI of Morris & Essex; Open MRI of Union County; Open MRI of Englewood Cliffs; Open MRI of

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<sup>1</sup>See Material Damage Adi. v. Open MRI of Fairview and Dr. Paul Pevsner 352 N.J. Super. 216 (Law Div. 2002) **and** other decisions.

Englewood Cliffs & Women's Center; **Open MRI & Clinical Laboratory of Englewood Cliffs: Quality MRI, NeuroTech Diagnostics**<sup>2</sup>. Dr. Pevsner also admits offering medical professional services as "Teleradiology Network, Inc.", an impermissible corporate structure.

Count **4**: Dr. Pevsner admits the allegations of Count 4, in that he did not file a supplement to his 1997 biennial registration questionnaire which required identification of all practice affiliations. He did not disclose New Jersey corporations **with** which he had commenced practice affiliations, including Open MRI of Fairview at which he held himself out as the Medical Director. He offers the explanation that he **was** not employed by the several corporations at issue at the time he initially filed the registration in May **1997**, and did not **realize** he had a duty to supplement the response when he commenced employment for those entities.

Dr. Pevsner, wishing to resolve this matter amicably and without further **proceedings**, has determined not to contest the **proposed** findings of **the** Board, which are hereby adapted **as** alleged in the Complaint.

Therefore, for good cause shown,

IT **IS**, ON THIS 13<sup>TH</sup> DAY OF **APRIL** 2005  
ORDERED:

1. **The** license of **Paul H. Pevsner, M.D.** is hereby suspended for **five** years. The first 2 years shall be served as an active suspension commencing July 1, 2005, and the remainder shall be stayed contingent upon respondent's compliance **with** the conditions set forth below:

Respondent shall comply with **all** of the requirements of **N.J.A.C. 13:35-6.5(h)** regarding release of patient records and shall promptly deliver to the Board of Medical **Examiners** his CDS and **DEA drug** registration. He shall promptly destroy **all** prescription pads and remove any other indicia of **New Jersey** licensure, including any advertisements in any medium.

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<sup>2</sup>Dr. Pevsner asserts that he had no knowledge that his reports **were** being printed on the letterhead of that entity.

2. **Respondent** shall immediately cease and desist from the practice of medicine or surgery in the State of New Jersey except as permitted for the interim period set forth in paragraph 6 below. "Practice", for the purpose *is* this Order, means any form of diagnosing, treating, operating or prescribing for any human ailment, disease, pain, injury, deformity, mental or physical condition of a New Jersey patient or a patient being treated by a practitioner practicing in New Jersey, whether **such** conduct by respondent takes place within or outside of the geographic borders of the State and includes practice in any **medium** of communication. Respondent shall **make** such **inquiries as** are **necessary** to assure compliance with this provision.

3. Respondent **is** assessed investigative costs, attorney fees and civil penalty in the aggregate sum of \$80,000.00 to be paid to the State Board of **Medical** Examiners, pursuant to N.J.S.A. 45:1-25. A Certificate of Debt shall be filed. Respondent shall, however, pay \$40,000 of said sum no later than July 1, 2005, and the remainder shall be payable in equal quarterly installments completed within three years of the entry of this Order. All payments shall be submitted to the Board *office*, P.O. Box 183, Trenton, NJ 08625-0183. Payment shall be **made** by certified **check** or money order **payable** to the State of New Jersey.

4. Pursuant to N.J.S.A. 45:1-23 and within **EO days** of the entry of this Order, **Dr. Pevsner** shall **make** reimbursement totaling **\$2,750.00** to the sample of insurance **carriers** listed on Exhibit **A** in the sums appearing next to their names.

5. Respondent shall promptly file dissolution **papers** for registration (if any) of "Teleradiology **Network, Inc.**" to do business in the State of New Jersey.<sup>3</sup>

6. (a) Prior to the start of *the* active suspension period (July 1, 2005), from April 4, 2005 through June 30, 2005 respondent shall neither offer nor **accept** from any source, any MRI studies for interpretation of New Jersey patients, irrespective of the location of the testing, from **any** source and through **any** medium of communication.

(b) During the above-stated interim period, he shall not undertake the interpretation of any other form of radiological study unless he has first obtained a monitor approved by the Board of Medical Examiners, which monitor shall assure weekly review of respondent's interpretations at

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<sup>3</sup>Respondent represents that he has now changed **his** corporate **format** to a professional corporation.

respondent's expense, and shall submit a weekly **report** confirming the review conducted. In the event that a deviation from accepted standards of practice **is** identified, the monitor shall notify the Board within 24 hours.

(c) Except in compliance **with (a) and (b) above**, respondent shall not submit claims, individually or through any practice entity, **seeking** payment for any form or component of professional practice or services involving imaging studies or **services** of any **type** rendered after April **4**, 2005, and shall not knowingly **permit** any practice entity to submit such post-April 4, 2005 claims in **his** name or on his behalf, individually or through any practice entity.

7. Upon conclusion of the two years of active suspension, respondent shall first appear, on notice, before a Committee of the Board, to present his plans and his competence to practice medicine in compliance with applicable **laws**, rules and accepted standards of practice. Prior to **the** time of such appearance, respondent **may** submit the resume and agreement of a monitor who shall **supervise** his **practice** as further detailed below, The Board may require periodic review of records **to be** arranged through the Medical Director of the Board. Any monitoring and related reporting restrictions shall be at respondent's expense.

8. In the absence of any problems reported to or identified by the Board, respondent **may** then commence **a** two-year period of practice under supervision of a monitor having the prior **approval** of the **Board**. Respondent shall be responsible to **assure** that the monitor submits **quarterly** reports to the Board describing the manner and content of his/her supervision **and** the monitor's evaluation of whether respondent's professional services as performed and **as billed are** consistent with accepted standards of practice.

**9.** Following completion of the two years of supervised practice, and not without such completion, respondent **may** commence the remaining **year** of probation. It is understood that this Order shall not be deemed to have been satisfied without the required period of supervised practice.

10. The entry of this Order shall not limit the authority of the Attorney General or of **any** other person or agency **to** initiate any action permitted by law, whether administrative, civil or criminal, in any court or other forum of competent jurisdiction in connection with matters coming within that jurisdiction.

11. This consent Order is intended to, and does, fully and finally resolve all claims in any **way**

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relating to Dr. Pevsner's license to practice medicine and surgery in the State of New Jersey through the date of this Order.

12. Respondent shall comply with the attached Disciplinary Directives incorporated herein.

13. This resolution is deemed a reportable event, and the attached Notice provisions are incorporated herein.

THIS ORDER IS EFFECTIVE UPON ENTRY

STATE BOARD OF MEDICAL EXAMINERS

By: Bernard Robins, M.D., F.A.C.P.

Bernard Robins, M.D., F.A.C.P.  
President

I have read the within Order and  
understand its terms. I consent to  
the filing of the Order by the Board  
of Medical Examiners.

Paul J. Pevsner, M.D.  
Paul J. Pevsner, M.D.

Witness:

By: Joann Pietro

Joann Pietro, Esq.  
Counsel to Dr. Pevsner

## ATTACHMENT A

REIMBURSEMENT TO CARRIERS<sup>4</sup>:

## Ohio Casualty

B■■■■1, C■■■■2, C■■■■1, A■■■■ P■■■■2, B■■■■ P■■■■1, R■■■■2

## Empire Fire and Marine

R■■■■1

## Personal Injury Claims Services, Inc.

A■■■■2, C■■■■2, R■■■■1, S■■■■1, V■■■■2

## First Trenton

A■■■■2 B■■■■2 B■■■■1, B■■■■1, C■■■■2, F■■■■2, J■■■■2, L■■■■2, M■■■■3,  
R■■■■2

## State Farm

B■■■■2, R. H■■■■2, M. H■■■■2

## Universal Underwriters Group

C■■■■2

## Association for Retarded Citizens

H■■■■2

## Pathmark

S O H — 1

## Concentra

L■■■■2, S■■■■2, S■■■■1

## Parkway

S■■■■2

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<sup>4</sup>Certain other carriers are not listed. as fees for their patients were resolved in separate civil settlements. The patient names listed herein are redacted to preserve patient confidentiality; a list containing full identification shall be maintained on confidential file with the Board.

**DIRECTIVES APPLICABLE TO ANY MEDICAL BOARD LICENSEE  
WHO IS DISCIPLINED OR WHOSE SURRENDER OF LICENSURE  
HAS BEEN ACCEPTED'**

All licensees who *are* the subject of a disciplinary order of the Board ~~are~~ required to provide the information required on the addendum to these directives. The information provided will be maintained separately and will ~~not~~ be ~~part~~ of the public document filed ~~with~~ the Board. Failure to provide the information required ~~may~~ result in further disciplinary action for failing to cooperate with the Board, ~~as required by N.J.A.C. 13:45C-1 et seq.~~ Paragraphs 1 through ~~4~~ below shall apply when a license ~~is~~ suspended or revoked ~~or~~ permanently surrendered, with or without prejudice. Paragraph 5 applies to licensees who ~~are~~ the subject of an order which, while permitting continued practice, contains a probation or monitoring requirement.

**1. Document Return and Agency Notification**

The licensee shall promptly forward to the Board ~~office~~ at Post Office Box 183, 140 East Front Street, 2nd floor, Trenton, New Jersey 08625-0183, the original license, current biennial registration and, if applicable, the original CDS registration. In addition, if the licensee holds a Drug Enforcement Agency (DEA) registration, he or she shall promptly advise the DEA of the licensure action. (With respect to suspensions of a finite term, at the conclusion of the term, the licensee may contact the Board office for the return of the documents ~~previously~~ surrendered to the Board. In addition, at the conclusion of the term, the licensee should contact the DEA to advise of the resumption of practice and to ascertain the impact of that change upon his/her DEA registration.)

**2. Practice Cessation**

The licensee shall cease and desist from engaging in the practice of medicine in this State. This prohibition not only bars a licensee from rendering professional services, but also from providing an opinion as to professional practice or its application, or representing him/herself ~~as~~ being eligible to practice. (Although the licensee need not affirmatively advise patients or others of the revocation, suspension or surrender, ~~the~~ licensee ~~must~~ truthfully disclose his/her licensure status in response to inquiry.) The disciplined licensee is also prohibited from occupying, sharing or using office space in which another licensee provides health care services. The disciplined licensee may contract for, accept payment from another licensee for or rent at fair market value ~~office~~ premises and/or equipment. In no ~~case~~ may the disciplined licensee authorize, allow or condone the use of his/her provider number by any health care practice or any other licensee or health care provider. (In situations where the licensee has been suspended for less than one year, the licensee ~~may~~ accept payment from another professional who is using his/her office during the period that the licensee is suspended, for the payment of salaries for office staff employed at the time of the Board action.)

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‘APPROVED BY THE BOARD ON MAY 10, 2000



A licensee whose license **has** been revoked, suspended for one (1) year or more or permanently **surrendered** must remove signs and take affirmative action to stop advertisements by which his/her eligibility to practice is represented. The licensee must also take steps to remove his/her name from professional listings, telephone directories, professional stationery, or billings. If the licensee's name is utilized in a group practice title, it shall be deleted. Prescription **pads** bearing the licensee's name shall be destroyed. A destruction report form obtained from the Office of Drug Control (973-504-6558) must be filed. If no other licensee is providing services at the location, all medications *must* be removed and returned to the manufacturer, if possible, destroyed or safeguarded. (In situations where a license has been suspended for less than one year, prescription pads and medications need not be destroyed but must be secured in a locked place for safekeeping.)

### **3. Practice Income Prohibitions/Divestiture of Equity Interest in Professional Service Corporations and Limited Liability Companies**

A licensee shall not charge, receive or share in any fee for professional services rendered by him/herself or others while barred from engaging in the professional practice. The licenser may be compensated for the reasonable value of services lawfully rendered and disbursements incurred on a patient's behalf prior to the effective date of the Board action.

A licensee who is a shareholder in a professional service corporation organized to engage in the professional practice, whose license is revoked, **surrendered** or suspended for a term of one (1) year or more shall be deemed to be disqualified from the practice within the meaning of the Professional Service Corporation Act, (N.J.S.A. 14A:17-11). A disqualified licensee shall divest him/herself of all financial interest in the professional service corporation pursuant to N.J.S.A. 14A:17-13(c). A licensee who is a member of a limited liability company organized pursuant to N.J.S.A. 42:1-44, shall divest him/herself of all financial interest. Such divestiture shall occur within 90 days following the entry of the Order rendering the licensee disqualified to participate in the applicable form of ownership. Upon divestiture, a licensee shall forward to the Board a copy of documentation forwarded to the Secretary of State, Commercial Reporting Division, demonstrating that the interest has been terminated. If the licensee is the sole shareholder in a professional service corporation, the corporation must be dissolved within 90 days of the licensee's disqualification.

### **4. Medical Records**

If, as a result of the Board's action, a practice is closed or transferred to another location, the licensee shall ensure that during the three (3) month **period** following the effective date of the disciplinary order, a message will be delivered to patients calling the former office premises, advising where records may be obtained. The message should inform patients of the names **and** telephone numbers of the licensee (or his/her attorney) assuming custody of the records. The same information shall also be disseminated by means of a notice to be published at least once per month for three (3) months in a newspaper of general circulation in the geographic **vicinity** in which the practice was conducted. **At the** end of the three month **period**, the licensee shall file with the Board the name **and** telephone number of the contact person who will have access to medical records of former patients. Any change in that individual or his/her telephone number shall be promptly reported to the Board. When a patient or his/her representative requests a copy of his/her medical record or **asks** that such record

be forwarded to another health care provider, the licensee shall promptly provide the record without charge to the patient.

## **5. Probation/Monitoring Conditions**

With respect to any licensee who is the subject of an Order imposing a probation or monitoring requirement or a stay of an active suspension, in whole or in part, which is conditioned upon compliance with a probation or monitoring requirement, the licensee shall fully cooperate with the Board and its designated representatives, including the Enforcement Bureau of the Division of Consumer Affairs, in ongoing monitoring of the licensee's status and practice. Such monitoring shall be at the expense of the disciplined practitioner.

(a)<sup>6</sup> Monitoring of practice conditions may include, but is not limited to, inspection of the professional premises and equipment, and inspection and copying of patient records (confidentiality of patient identity shall be protected by the Board) to verify compliance with the Board Order and accepted standards of practice.

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<sup>6</sup> Standard paragraph (b), relating to monitoring of impaired practitioners, is omitted here as not applicable.

## **NOTICE OF REPORTING PRACTICES OF BOARD REGARDING DISCIPLINARY ACTIONS**

Pursuant to N.J.S.A. 52:14B-3(3), all orders of the **New Jersey** State Board of Medical Examiners are available for public inspection. Should any inquiry be made concerning the status of a licensee, the inquirer will **be** informed of the existence of the order and a **copy will** be provided if requested. All evidentiary hearings, proceedings on motions or other applications which **are** conducted as public hearings and the record, including the transcript and documents marked in evidence, are available for public inspection, upon request.

Pursuant to 45 **CFR** Subtitle **A 60.8**, the Board is obligated to report to the National Practitioners Data Bank **any** action relating to a physician which is based on reasons relating to professional competence or professional conduct:

- (1) Which revokes or **suspends** (or otherwise restricts) a license:
- (2) Which censures, reprimands or places on probation:
- (3) Under which a license is surrendered.

Pursuant to 45 **CFR** Section **61.7**, the Board is obligated to report to the Healthcare Integrity and Protection (HIP) Data **Bank**, any formal or official actions, such as revocation or suspension of a license (and the length of an); such suspension), reprimand, censure or probation or any other loss of license or the right to apply for, or renew, a license of the provider, supplier, or practitioner, whether by operation of law, voluntary surrender, non-renewability, or otherwise, as any other negative action or finding by such federal or State agency that is publicly available information.

Pursuant to N.J.S.A. 45:9-19.13, if the Board refuses to issue, **suspends**, revokes or otherwise places conditions on a license or permit, it is obligated to notify each licensed health care facility and health maintenance organization with which a licensee is affiliated and every other board licensee in this state **with whom** he or she is directly associated in private medical practice.

In accordance with an agreement with the Federation of State Medical Boards of the United States, a list of all disciplinary orders are provided to that organization on a monthly basis.

Within the month following entry of an order, a summary of the order will appear on the public agenda for the **next** monthly Board meeting and is forwarded to those members of the public requesting a copy. In addition, the **same** summary will appear in the minutes of that Board meeting, which are also made available to those requesting a copy.

Within the month following entry of an order, a summary of the order **will appear** in a Monthly Disciplinary Action Listing which is **made** available to those members of the public requesting a **copy**.

On a periodic basis the Board disseminates to its licensees a newsletter which includes a brief description of all of the orders entered by the Board.

From time to time, the Press Office of the Division of Consumer Affairs may issue releases including the summaries of the content of public orders.

Nothing herein is intended in any way to limit the Board, the Division or the Attorney General from disclosing any public document.